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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/800,233	
	Filing Date	03/11/2004	
	First Named Inventor	Carlos A. Khantzis	
	Art Unit	3728	
	Examiner Name	John Ted Kavanaugh	
Total Number of Pages in This Submission	7	Attorney Docket Number	20850.150

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Attorney's Docket No.: 20850.150

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Carlos A. Khantzis

Serial No.: 10/800,233

Filing Date: 03/11/2004

Group Art Unit No.: 3728

Examiner: John Ted Kavanaugh

Telephone: (571) 272-4556

For the Invention of:

**SHOE SOLE TO IMPROVE WALKING,
SENSORY RESPONSE OF THE TOES,
AND HELP DEVELOP LEG MUSCLES**

Mail Stop Appeal Brief – Patents

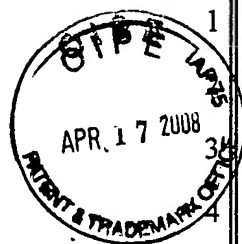
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APPELLANT'S REPLY BRIEF

This Appellant's Reply Brief is in response to the Examiner's Answer mailed on February 20, 2008. The deadline for filing this Reply Brief is April 20, 2008. This Reply Brief is being mailed by Express Mail, Mailing Label No. EM 167806604 US, on April 17, 2008. Therefore, this Reply is timely filed. If there is any fee required for filing this Reply, then the Commissioner for Patents is hereby authorized to charge my Deposit Account No. 18-2222 for any such appropriate fee.





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Date: April 17, 2008

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TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page

I.	Agreement On Positions of Examiner Accepting That Appellant's Statements in the Appeal Brief are Correct....	1
II.	Claim Rejection by Examiner Under 35 U.S.C. § 102 and 35 U.S.C. § 103.....	1
III.	Response to Examiner's Arguments.....	1
IV.	Conclusion.....	3



I. Agreement On Positions of Examiner Accepting That Appellant's Statements in the Appeal Brief are Correct

The Examiner in his Answer agreed with the Appellant's statements on the (1) Real Party in Interest; (2) Related Appeals and Interferences; (3) Status of Claims; (5) Summary of Claimed Subject Matter; (6) Ground of Rejection to be Reviewed on Appeal; (7) Claims Appendix; and (8) Evidence Relied Upon. Therefore, there is no dispute with respect to this portion of the Examiner's Answer.

II. Claim Rejection by Examiner Under 35 U.S.C. § 102 and 35 U.S.C. § 103

The Examiner in effect has simply repeated and restated the final rejection of all of the claims for the same reasons as the Examiner stated in the final Office Action. The Appellant very extensively addressed all of these arguments in the Appellant's Brief.

III. Response to Examiner's Arguments

The Appellant will address all of the Examiner's responses in the Examiner's Answer.

(a) Claims 4, 6, 7, 10, 11, 12, 35, 37, 38, 41, 42, 43 are rejected under 35 U.S.C. § 102(b) as being anticipated by US 4557060 (Kawashima). The Appellant extensively addressed these arguments in Section VII, Paragraph 1, of its Appellant's Brief. The Examiner's statements that the Appellant's claims do not contain the language which make the invention patentable are simply not correct. In Claim 4, the concept of the deformable padding is clearly discussed which is comparable to the deformable gel discussed by the Examiner and which deformable gel language appears in Claim 1.

1 With respect to the Examiner's statement that "the limitation 'under the
2 toes or the foot' is not claimed and is therefore moot" is simply not correct. The
3 claim clearly states that claim element "a" of Claim 4 for example clearly states
4 that the deformable padding is located beneath the toes of the foot when the shoe
5 is worn, so that all five toes rest on the deformable padding and the base of the
6 big toe rests right below the 1st metatarso-phalangeal joint, and also rests on the
7 deformable padding. Therefore, this limitation clearly has been inserted into the
8 claim.

9 The overall conclusions for the reasons as set forth in very great detail in
10 the Appellant's brief is that the Kawashima Patent is a totally different invention
11 for a totally different purpose and has nothing whatsoever to do with the present
12 invention and the claims of invention as set forth in the present invention clearly
13 distinguish it over Kawashima.

14 (b) Claims 10, 12, 13, 41, 43, 44 are rejected under 35 U.S.C. § 102(b) as
15 being anticipated by US 4211236 to Krinsky. The Examiner's arguments are
16 simply incorrect. The Appellant has clearly shown that the entire Krinsky Patent
17 is a totally different invention teaching an adjustable cushion that cushions the
18 entire bottom surface of the foot. It has nothing whatsoever to do with the
19 present invention. It is respectfully submitted that all of the limitations that were
20 argued by the Appellant in the Appellant's brief are clearly found in the claims
21 in questions.

22 (c) The Examiner says that Claims 11 and 42 are rejected under 35 U.S.C.
23 § 103(a) as being unpatentable over Krinsky. Once again, it is respectfully
24 submitted that the claims do have the limitations as required therein to
25 distinguish over the art.

26 (d) Claims 14 and 45 are rejected under 35 U.S.C. § 103(a) as being
27 unpatentable over Krinsky '236 in view of Official Notice. The point that the
28 Appellant raises that Krinsky does not invalidate the present invention and the

1 claims are clearly distinguishable over Krinsky and therefore, are clearly
2 patentable. The Official Notice is not relevant because Krinsky itself is not an
3 invalidating reference.

4 (e) Claims 1-6, 8-14 and 32-37, 39-45 are rejected under 35 U.S.S.
5 § 103(a) as being unpatentable over Krinsky '236 in view of Office Notice. The
6 Examiner's statements are simply not correct. Once again, the claims have the
7 limiting language as discussed at length in the brief to basically distinguish these
8 claims over the prior cited reference to Krinsky.

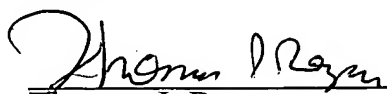
9 (f) With respect to the Examiner's arguments of Claims 1 and 32 are
10 rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawashima '060
11 in view of US 4768295 (Ito), once again, it is respectfully submitted that the
12 claims of invention clearly contain distinguishing language as extensively
13 argued in the Appellant's brief to clearly distinguish it over the cited references.

14 IV. Conclusion

15 Accordingly, it is respectfully submitted that for all the reasons set forth at
16 very great length in the Appellant's brief, the present invention as claimed with
17 all of the claims clearly contains the patentable features which distinguish each
18 of the claims of invention over the cited references which clearly are totally
19 different inventions for totally different purposes. Accordingly, it is respectfully
20 submitted that the Examiner should be reversed and that the present application
21 be approved.
22

23 Respectfully submitted,

24 Date: April 17, 2008

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